

REMARKS

In the non-final Office Action, the Examiner objects to claim 3 due to an informality, rejects claims 3-5 under 35 U.S.C. § 112, second paragraph, as indefinite; rejects claims 1, 6-8, 10, and 11 under 35 U.S.C. § 103(a) as allegedly unpatentable over ALDRED et al. (U.S. Patent No. 5,719,942) in view of TUROCK (U.S. Patent No. 6,243,373); rejects claims 2-5 and 9 under 35 U.S.C. § 103(a) based on ALDRED et al. in view of TUROCK, and further in view of RONEN et al. (U.S. Patent No. 5,905,736); and rejects claims 1-11 under the judicially-created doctrine of obviousness-type double patenting over claims 1-6 of ELLIOTT et al. (U.S. Patent No. 6,335,927). Applicants respectfully traverse the above objection and rejections.¹

By the present amendment, Applicants amend claim 3 to improve form. No new matter has been added by way of the present amendment. Claims 1-11 remain pending.

Objection due to informality

Claim 3 stands objected due to an informality. Applicants amend claim 3 herein in accordance with the Examiner's helpful suggestion. Accordingly, Applicants respectfully request that the objection to claim 3 be reconsidered and withdrawn.

Rejection under 35 U.S.C. § 112, second paragraph

Claims 3-5 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite. Applicants respectfully traverse this rejection.

¹ As Applicants' remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicants' silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, reasons to modify a reference and/or to combine references, assertions as to dependent claims, etc.) is not a concession by Applicants that such assertions are accurate or such requirements have been met, and Applicants reserve the right to analyze and dispute such assertions/requirements in the future.

The Examiner refers to various alleged deficiencies in claims 3-5 (Office Action,

p. 3). In particular, the Examiner alleges:

The claimed method fails to indicate any interaction between elements (modes, links, process) as to how the "entry indicative", "parsing field" are determined. The term "*a third entry indicative*" or "*parsing a field*" is not defined by the claims, does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is not clear what constitutes such "*a third entry indicative*" or "*parsing a field*". It is not clear what kind of entry for this third entry (billing entry, network entry, data entry, user entry...), what involved in "*parsing a field*", and are there the first or second entry associated with the third entry or additional entry

(Office Action, p. 3). Applicants respectfully disagree with the Examiner's allegations.

It is black letter Patent law that the breadth of a claim is not to be equated with indefiniteness. *In re Miller*, 441 F.2d 689, 169 USPQ 597 (CCPA 1971). See also M.P.E.P. § 2173.04. Additionally, a fundamental principle contained in 35 U.S.C. §112, second paragraph, is that Applicants are their own lexicographers and may "define in the claims what they regard as their invention essentially in whatever terms they choose so long as any special meaning assigned to a term is clearly set forth in the specification." M.P.E.P. § 2173.01. Applicants respectfully submit that the features of the claims at issue have been broadly defined, as clearly permitted under 35 U.S.C. §112, second paragraph. The Examiner's allegations regarding clarity go to the breadth of the claims, and not to the indefiniteness of the claims.

For example, claim 3, as amended, recites "transmitting a message to the call server with an entry indicative of time of termination of the media communication." Applicants submit that this claim is definite under 35 U.S.C. § 112, second paragraph. The Examiner's allegation as to how the entry is determined and the type of entry being

recited goes to the breadth of the claim and not indefiniteness of the claim. Moreover, Applicants are not required to define every word in a claim. The word "entry" is used according to its customary meaning in the art.

Applicants have broadly recited transmitting a message to the call server with an entry indicative of time of termination of the media communication. The Examiner's alleged confusion with respect to claim 3 in no way renders this claim indefinite.

With respect to claim 4, which recites "creating an additional entry in the bill detail record indicative of a type of service provided by the hybrid network," Applicants submit that the Examiner's alleged confusion as to whether there is a first or second entry associated with the third entry or additional entry goes to claim breadth and not indefiniteness of the claim. Applicants respectfully submit that 35 U.S.C. §112, second paragraph, does not require that Applicants narrow claim 4 to recite whether or not a first or second entry is associated with the recited additional entry. The Examiner's alleged confusion with respect to claim 4 in no way renders this claim indefinite.

With respect to claim 5, which recites "determining the requested quality of service by parsing a field from the request for a media communication," Applicants submit that the Examiner's alleged confusion as to how parsing a field is determined and what is involved in parsing a field goes to claim breadth and not indefiniteness of the claim. Applicants have broadly recited "parsing a field from the request," which can be performed in any manner. Applicants respectfully submit that 35 U.S.C. §112, second paragraph, does not require that Applicants narrow claim 5 to recite exactly how the parsing a field from a request is performed. The Examiner's alleged confusion with

respect to claim 5 in no way renders this claim indefinite. Moreover, Applicants are not required to define every word in a claim. The phrase "parsing a field" is used according to its customary meaning in the art.

For at least the foregoing reasons, Applicants submit that claims 3-5 are definite and satisfy the requirements of 35 U.S.C. § 112, second paragraph.

Rejection under 35 U.S.C. § 103(a) based on ALDRED et al. and TUROCK

Claims 1, 6-8, 10, and 11 stand rejected under 35 U.S.C. § 103(a) based on ALDRED et al. and TUROCK. Applicants respectfully traverse this rejection.

Independent claim 1 is directed to a method for media communication over a hybrid network that includes a circuit switched network and a packet switched network. The method includes receiving a request for a media communication by a resource management processor connected to the hybrid network; determining an amount of resources in the hybrid network necessary to obtain a requested quality of service; allocating necessary resources to provide the requested quality of service on the hybrid network; and releasing the necessary resources upon termination of the media communication. ALDRED et al. and TUROCK, whether taken alone or in any reasonable combination, do not disclose or suggest this combination of features.

For example, ALDRED et al. and TUROCK do not disclose or suggest determining an amount of resources in the hybrid network necessary to obtain a requested quality of service. The Examiner appears to rely on Fig. 9h and col. 1, line 52, to col. 46, line 48, of ALDRED et al. for disclosing determining an amount of resources in a network necessary to obtain a requested quality of service (Office Action, pp. 4-5). The

Examiner also admits that ALDRED et al. does not disclose a hybrid network that includes a circuit switched network and a packet switched network (Office Action, p. 5). The Examiner relies on TUROCK for allegedly disclosing the hybrid network (Office Action, pp. 5-6). Applicants strenuously object to the Examiner's piecemeal examination of the above feature of claim 1.

Claim 1 does not recite "determining an amount of resources in the network necessary to obtain a requested quality of service" and "hybrid network." In contrast, claim 1 specifically recites "determining an amount of resources in the hybrid network necessary to obtain a requested quality of service." Rather than addressing this specifically-recited feature of claim 1, the Examiner breaks the feature down into illogical parts by pointing to portions of one reference for allegedly disclosing determining an amount of resources in the network necessary to obtain a requested quality of service and to unrelated portions of a second reference for allegedly disclosing a hybrid network. Such attempts at reconstructing Applicants' claims are clearly impermissible.

Fig. 9h of ALDRED et al. depicts a flow chart for processing a request for support (col. 3, lines 33-34). ALDRED et al. discloses that an intermediate node receives a request that includes quality of service parameters required for a communication to the destination node and determines whether the request can be supported (col. 20, lines 25-34). To make the determination, the intermediate node determines which adjacent node needs to be contacted to reach the destination node and determines whether the available communication resources to the adjacent node are sufficient to support the request (col.

20, lines 34-39). Thus, ALDRED et al. merely discloses the determination of whether adequate resources exist between one intermediate node and an adjacent node. ALDRED et al. does not disclose or suggest determining an amount of resources in a hybrid network necessary to obtain a requested quality of service, as recited in claim 1.

Col. 1, line 52 to col. 46, line 48, of ALDRED et al. corresponds to almost the entire ALDRED et al. disclosure. ALDRED et al. is directed to establishing a communication channel between a source node and a destination node (Abstract). As indicated above, ALDRED et al. discloses determining whether adequate resources exist between one intermediate node and an adjacent node (see, for example, col. 20, lines 34-39). ALDRED et al. does not disclose or suggest determining an amount of resources in a hybrid network necessary to obtain a requested quality of service, as recited in claim 1.

The disclosure of TUROCK does not remedy the above deficiency in the disclosure of ALDRED et al. That is, TUROCK does not disclose or suggest determining an amount of resources in a hybrid network necessary to obtain a requested quality of service, as recited in claim 1. TUROCK is directed to a system that provides audio information over a computer network (Abstract). While TUROCK discloses a hybrid network (see, for example, Fig. 2), TUROCK does not disclose or suggest determining an amount of resources in a hybrid network necessary to obtain a requested quality of service, as recited in claim 1.

TUROCK discloses the establishment of a call from a source to a destination over a network that includes a PSTN and the Internet (Fig. 2). TUROCK discloses the steps involved in establishing the call at col. 6, line 29 to col. 7, line 17. TUROCK does not

disclose or suggest that the process for establishing a call over a network, which includes a PSTN and the Internet, includes determining an amount of resources in the hybrid network necessary to obtain a requested quality of service, as recited in claim 1.

Since ALDRED et al. and TUROCK do not disclose or suggest determining an amount of resources in a hybrid network necessary to obtain a requested quality of service, ALDRED et al. and TUROCK cannot disclose or suggest allocating necessary resources to provide the requested quality of service on the hybrid network, as also recited in claim 1.

For at least the foregoing reasons, Applicants submit that claim 1 is patentable over ALDRED et al. and TUROCK, whether taken alone or in any reasonable combination. Accordingly, Applicants respectfully request that the rejection of claim 1 under 35 U.S.C. § 103(a) based on ALDRED et al. and TUROCK be reconsidered and withdrawn.

Claim 6 depends from claim 1. Therefore, this claim is patentable over ALDRED et al. and TUROCK, whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 1. Accordingly, Applicants respectfully request that the rejection of claim 6 under 35 U.S.C. § 103(a) based on ALDRED et al. and TUROCK be reconsidered and withdrawn. Moreover, this claim is patentable over ALDRED et al. and TUROCK for reasons of its own.

Claim 6 recites determining the requested quality of service from profile information associated with a caller of the media communication. With respect to this feature, the Examiner alleges:

Aldred teaches the Quality of service information characterizes the communication capabilities of the link. For each link type the link selection order, and defaults for the quality of service characteristics, are stored in the configuration profile (*profile information associated with a caller for communications*). The quality of service profile contains the necessary information for the support system to decide whether and how compression and encryption should be used. The value in the profile entry is used to fill in the fields of a launch call, which is then executed (*profile information of the caller is used in establishing media communications*)

(Office Action, p. 6). Applicants respectfully disagree.

ALDRED et al. does not disclose or suggest that the configuration profile is or includes profile information associated with a caller of a media communication, as the Examiner alleges. Moreover, ALDRED et al. does not disclose or suggest that the quality of service profile is or includes profile information associated with a caller of a media communication, as the Examiner also appears to allege. If this rejection is maintained, Applicants respectfully request that the Examiner specifically point out where ALDRED et al. discloses that the configuration profile or the quality of service profile includes profile information associated with a caller of a media communication and determining a requested quality of service based on the profile information associated with the caller, as recited in claim 6.

For at least these additional reasons, Applicants submit that claim 6 is patentable over ALDRED et al. and TUROCK, whether taken alone or in any reasonable combination. Accordingly, Applicants respectfully request that the rejection of claim 6 under 35 U.S.C. § 103(a) based on ALDRED et al. and TUROCK be reconsidered and withdrawn.

Independent claims 7 and 10 recite features similar to (yet possibly of different scope than) features described above with respect to claim 1. Therefore, Applicants submit that claims 7 and 10 are patentable over ALDRED et al. and TUROCK, whether taken alone or in any reasonable combination, for at least reasons similar to reasons given above with respect to claim 1. Accordingly, Applicants respectfully request that the rejection of claims 7 and 10 under 35 U.S.C. § 103(a) based on ALDRED et al. and TUROCK be reconsidered and withdrawn.

Claim 8 depends from claim 7. Therefore, this claim is patentable over ALDRED et al. and TUROCK, whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 7. Accordingly, Applicants respectfully request that the rejection of claim 8 under 35 U.S.C. § 103(a) based on ALDRED et al. and TUROCK be reconsidered and withdrawn.

Claim 11 depends from claim 10. Therefore, this claim is patentable over ALDRED et al. and TUROCK, whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 10. Accordingly, Applicants respectfully request that the rejection of claim 11 under 35 U.S.C. § 103(a) based on ALDRED et al. and TUROCK be reconsidered and withdrawn.

*Rejection under 35 U.S.C. § 103(a) based on ALDRED et al.,
TUROCK, and RONEN et al.*

Claims 2-5 and 9 stand rejected under 35 U.S.C. § 103(a) based on ALDRED et al. in view of TUROCK, and further in view of RONEN et al. Applicants respectfully traverse this rejection.

Claims 2-5 depend from claim 1. While not acquiescing in the Examiner's rejection of claims 2-5, Applicants submit that the disclosure of RONEN et al. does not remedy the deficiencies in the disclosures of ALDRED et al. and TUROCK set forth above with respect to claim 1. For example, RONEN et al. does not disclose or suggest determining an amount of resources in a hybrid network (which includes a circuit switched network and a packet switched network) necessary to obtain a requested quality of service and allocating necessary resources to provide the requested quality of service, as recited in claim 1. Therefore, Applicants submit that claims 2-5 are patentable over ALDRED et al., TUROCK, and RONEN et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 1. Accordingly, Applicants respectfully request that the rejection of claims 2-5 under 35 U.S.C. § 103(a) based on ALDRED et al., TUROCK, and RONEN et al. be reconsidered and withdrawn. Moreover, these claims are patentable over ALDRED et al., TUROCK, and RONEN et al. for reasons of their own.

For example, claim 2 recites creating a bill detail record including an entry indicative of the requested quality of service on the hybrid network and transmitting the bill detail record to a call server connection to the hybrid network. ALDRED et al., TUROCK, and RONEN et al., whether taken alone or in any reasonable combination, do not disclose or suggest this combination of features.

For example, ALDRED et al., TUROCK, and RONEN et al. do not disclose or suggest creating a bill detail record including an entry indicative of the requested quality of service on the hybrid network. The Examiner admits that ALDRED et al. and

TUROCK do not disclose this feature (Office Action, p. 7). The Examiner appears to rely on Fig. 1 of RONEN et al. and RONEN et al.'s alleged disclosure that "charges for all such transactions are accumulated by a transaction server (109) and stored in an account on an associated database (110) identified with the IP address of the requesting terminal" for allegedly disclosing the above feature of claim 2 (Office Action, pp. 7-8). Applicants respectfully disagree with the Examiner's interpretation of RONEN et al.

Fig. 1 of RONEN et al. depicts a network that includes centralized billing functionality for transactions conducted by a user through an Internet Access Provider to one of a plurality of different Internet Service Providers (col. 3, lines 7-12). Neither this figure of RONEN et al. nor the description thereof discloses or suggests creating a bill detail record including an entry indicative of the requested quality of service on the hybrid network, as recited in claim 2.

RONEN et al. discloses, as the Examiner alleges, that charges for transactions are accumulated by a transaction server 109 and stored in an account on an associated database 110 identified with the IP address of the requesting terminal (Abstract). RONEN et al. does not disclose or suggest that the IP address of the requesting terminal corresponds to or includes information indicative of a requested quality of service on a hybrid network. Applicants submit that storing an IP address of a requesting terminal is not equivalent to creating a bill detail record including an entry indicative of the requested quality of service on the hybrid network, as recited in claim 2.

For at least these additional reasons, Applicants submit that claim 2 is patentable over ALDRED et al., TUROCK, and RONEN et al., whether taken alone or in any

reasonable combination. Accordingly, Applicants respectfully request that the rejection of claim 2 under 35 U.S.C. § 103(a) based on ALDRED et al., TUROCK, and RONEN et al. be reconsidered and withdrawn.

Claim 9 depends from claim 7. While not acquiescing in the Examiner's rejection of claim 9, Applicants submit that the disclosure of RONEN et al. does not remedy the deficiencies in the disclosures of ALDRED et al. and TUROCK set forth above with respect to claim 7. Therefore, Applicants submit that claim 9 is patentable over ALDRED et al., TUROCK, and RONEN et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 7. Accordingly, Applicants respectfully request that the rejection of claim 9 under 35 U.S.C. § 103(a) based on ALDRED et al., TUROCK, and RONEN et al. be reconsidered and withdrawn.

Rejection under judicially created doctrine of double patenting

Claims 1-11 stand rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over claims 1-6 of ELLIOTT et al. Applicants respectfully traverse this rejection.

Applicants filed a Terminal Disclaimer on August 15, 2005, in response to this same rejection in the Office Action, dated May 16, 2005. The final Office Action, dated November 8, 2005, at page 2, indicates that the Terminal Disclaimer has been accepted by the Patent Office. The Terminal Disclaimer acts to overcome the double patenting rejection. Yet, the Examiner continues to maintain the double patenting rejection of claims 1-11 based on ELLIOTT et al. The Examiner does not provide an explanation as to why the rejection continues to be maintained. Applicants assume that this continues to

be an oversight by the Examiner. Withdrawal of the rejection of claims 1-11 based on obviousness-type double patenting is, therefore, respectfully requested.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants respectfully request the Examiner's reconsideration of this application, and the timely allowance of the pending claims.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

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